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ABSTRACT

Determining acceptable practices in maintaining personnel files is a pertinent issue for school personnel administrators today. Recognizing this, the Georgia Association of School Personnel Administrators accepted the study of this topic as a committee assignment from the American Association of School Personnel Administrators. A survey instrument was mailed to 168 randomly selected school systems throughout the U.S. and data pertaining to the general contents of personnel files and relevant procedural questions were received from 129 systems. Results showed that 87 percent of those responding allowed employees to obtain copies of materials from their own files. A second survey instrument relating directly to personnel file privacy and confidentiality was mailed to selected school systems throughout the U.S. It focused on the areas of housing and supervision of employee files, release of information, and records retention and disposal. Results showed that 61 percent of the systems surveyed outline procedures for maintaining confidentiality of information contained in employee files. The final report of the committee includes a review of pertinent professional literature, relevant legislation and its effect on personnel file management procedures, and recommendations relevant to school personnel records. (Author/LD)

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ACCEPTABLE PRACTICES IN MAINTAINING PERSONNEL FILES

Prepared by

The Georgia Association of School Personnel Administrators

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EA 012 647

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PREFACE

Acceptable practices in maintaining personnel files is a pertinent issue for school personnel administrators today. Recognizing this, the Georgia Association of School Personnel Administrators accepted the study of this topic as a committee assignment from the American Association of School Personnel Administrators.

Finding limited professional literature relating to this topic, the study committee first attempted to define the contents of a personnel file and then to determine acceptable procedures for maintaining the file. Through a survey instrument mailed to 168 randomly selected school systems throughout the United States, data were received from 129 systems pertaining to the general contents of personnel files and relevant procedural questions.

Further, a review of recent literature on personnel file management yielded a second survey instrument relating directly to personnel file privacy/confidentiality. This instrument was mailed to selected school systems throughout the United States and focused on the areas of housing and supervision of employee files, release of information, and records retention and disposal. Again, the response was excellent with approximately 77 percent of the systems surveyed providing information.

The final report of this committee includes a review of pertinent professional literature, relevant legislation and its effect on personnel file management procedures, and an analysis of the two surveys conducted on this topic. Based on analysis of the total data collected by the committee, recommendations will be made for "enlightened personnel file management."

Introduction

There are many facets to the question of acceptable practices in maintaining personnel files. A logical beginning is to define the contents of a typical personnel file in order to view the question of what information should be collected and maintained. Once this file is defined, the question of confidentiality can be appropriately addressed. Among the considerations should be the following:

1. What is the proper level of confidentiality that should be maintained on such data? (This should include provisions for appropriate security.)
2. What access does the employee have to records that are maintained by the company or organization?
3. What third party access is allowed, and what procedures govern the release of this information?

A basic consideration in the issue of personnel file confidentiality must be the legal basis by which the employer is governed in its records management procedures. As stated by Congressman Barry M. Goldwater, Jr., "privacy legislation is of paramount importance to records administrators," thus reflecting the concern of legislators regarding this issue. Further evidence of legislative involvement is the Privacy Act of 1974, which is now law, and other previously proposed legislation such as H. R. 214 (Right to Privacy Act) and H. R. 1984. Legislation was introduced by Congressman Goldwater and Congressman Ed Koch in the 1977 session of Congress with the intent of stimulating interest in this area of individual rights. A number of bills have been introduced in the last few sessions of Congress; and although no major privacy legislation was enacted in the last two years, Francis M. Gregory, Jr., an attorney in Washington, D. C., who has been a frequent author and lecturer on the subject of privacy, stated that "it is more accurate

to view most such bills as being in involuntary hibernation," rather than considering that the bills "died."

A comprehensive study of major significance to the question of maintaining personnel files was completed in July, 1977, and printed by the United States Government Printing Office. This was the Final Report of the Privacy Protection Study Commission, created by the Privacy Act of 1974. The Commission devoted two years to examining individual privacy rights and record keeping in many environments, including the employment relationship. Although the private sector was emphasized in its inquiry, the Commission also attempted to assess the effectiveness of protection for personal privacy in the public sector.

While this Federal legislative interest alone should provide impetus to school administrators to consider the areas of employee privacy rights and personnel file confidentiality, further attention has been focused on the question by various state legislatures and by groups such as the American Civil Liberties Union. The Civil Liberties Union conducted a nationwide study recently in which seven hundred fifty (750) persons selected at random were presented questions concerning privacy and confidentiality of personnel files. Ninety-two percent of those who responded felt that they should have the right to see their own records. However, sixty-two percent did not agree with the creation of a governmental agency to "supervise employers' handling of personnel information." The study further indicated that the trend toward computerization of personnel records appeared to cause concern about protecting the confidentiality of the records.

Survey to Define a Personnel File

In developing the survey used in this study, the Georgia Association of School Personnel Administrators felt that it was imperative to determine first, what a personnel file generally contains and then to deal with procedures for maintaining the file.

Professional literature relating to the actual contents and maintenance of personnel files is virtually non-existent. Analysis of available literature coupled with individual contacts via telephone produced a listing of items for inclusion in the contents section of the survey instrument. Once the general area of file contents was developed, procedural questions followed.

The survey instrument was mailed to one hundred sixty-eight (168) randomly selected school systems throughout the United States. These systems were selected from the American Association of School Personnel Administrators' 1978 Membership Roster. Of those mailed, one hundred twenty-nine (129), or seventy-seven percent, were returned. Treatment of this data consisted of a simple mathematical compilation of the responses without regard to geographical regions or other information which, in the final analysis, might yield interesting results.

PERSONNEL FILES CONTENT:

The survey revealed a commonality of nine items that are included in ninety percent of the systems responding to the survey. These items were:

1. Original applications
2. College transcripts
3. Copies of certificates
4. Contracts
5. Evaluation data
6. Request(s) for leave
7. General statements or letters of commendation
8. Letters of reprimand
9. Resignation or termination data

Other items listed frequently, but included in the responses from at least fifty percent of the respondents were:

1. Medical information
2. Garnishment notices
3. Pre-employment information
4. Letters of complaint
5. Evaluative materials regarding promotions
6. Personal data

Items included in personnel files by less than fifty percent of the respondents were:

1. Standardized test scores
2. Loyalty oaths
3. Bad debt notices
4. Security questionnaires
5. EEOC charges
6. Grievance letters
7. Change of name information
8. Photograph
9. Self-assessments
10. Attendance reports
11. Salary and payroll information
12. Marriage certificate for women

With the exception of pre-employment information and certain evaluative materials relating to promotions, all other contents of the files were readily available for review by the employee.

PROCEDURAL QUESTIONS:

This portion of the survey instrument contained twelve questions relating to personnel file maintenance, policy, and/or procedure. These questions were formulated following a review of the literature relating to personnel file management. The following six statements emerged as "principles of enlightened personnel file management":

1. The personnel file should contain only materials appropriate to school personnel needs.
2. All employees should have access to their personnel files.
3. Employees should know who has access to the personnel file, and specifically how the personnel files will be used in the organizational setting.
4. Employees should be able to update or amend outdated data in their personnel file.
5. Employees should be able to prevent release of information to third parties unless required by law.
6. It is essential that an organization have a responsible person or persons to serve as custodians of the personnel files to prevent misuse or abuse of the contents of the file.

As the data were examined with reference to the above listed principles, it was found that in all instances, employees had the right to review the contents of their files upon request. Eighty percent of those systems responding to the survey indicated that they have a specified procedure that must be followed in order for employees to review their personnel files. Eighty-seven percent of those responding indicated that employees could obtain copies of materials from their files. Many persons also indicated that there was a nominal fee charged for the copies.

Survey Relating to Personnel File Privacy/Confidentiality

A second survey instrument was mailed to selected school systems throughout the United States relating directly to personnel file privacy/confidentiality. The survey instrument focused on the areas of supervision of employee files, release of information, and records retention/disposal.

According to responses to the second survey instrument, sixty-one percent of the systems surveyed outline procedures specifically for maintaining confidentiality of information contained in employee files. In most instances, files containing employee records are located in a general office area with somewhat limited accessibility. In thirteen percent of the systems surveyed the files are stored in a vault at the central office location. Further, in ninety-six percent of the systems, employees may obtain copies of materials in their files. It was interesting to note that in fifty-five percent of the systems surveyed, these copies could be obtained at the employer's expense.

In sixty-five percent of the systems surveyed, Board of Education members has access to employees' personnel files. In almost all instances, the immediate supervisor of an employee has access to that employee's file.

Ninety-eight percent of the systems surveyed require written authorization of the employee prior to releasing information from the file to a third party. However, on matters that remain within the public domain, e.g., verification of employment and verification of teaching experience, most systems release such information without written approval of the employee.

Based upon responses relating to personnel record retention/disposal, procedures for dealing with inactive personnel files seem to vary widely. Sixty-four percent of the systems indicated that inactive personnel files are never destroyed. Eighty-seven percent of the respondents indicated that as persons leave the employ of the system, their inactive personnel files do remain in the Personnel Department.

In summary, it seems apparent that most school systems do recognize the importance of protecting the privacy/confidentiality of the individual personnel file and are taking appropriate steps to make this a reality.

Personnel File Confidentiality

In determining the proper level of confidentiality, personnel administrators must not only be aware of Federal legislation in this area but also state laws that govern any aspect of this question and local board of education policies that address this subject. Housing and security of personnel records must also be considered. Security procedures should be established to prevent access to files by unauthorized personnel. Consideration should be given to formulating educational training programs for persons responsible for handling employee records and for the development of a secure center for housing these records.

Who should have the right to review personnel files? In earlier days of records management, the greatest level of security in maintaining personnel files was probably that of preventing employees from having access to their own records. Today, there is little dispute to the fact that employees should have the right to review their own personnel files. Trust between administrators and employees should be enhanced by keeping personnel files available for inspection by employees. Such procedures as how employees place requests to review their personnel files, the amount of notice that is required, whether or not employees may copy materials from their files, whether machine copying is allowed, and who bears the cost must be established. If a school system does not establish procedures allowing employees appropriate access to their files, it may become a negotiated clause in their contracts. An example found in School Personnel Practices (November, 1975) establishes the following procedures for allowing employees appropriate access to their files:

1. All personnel records kept on teachers shall be available to the teacher at reasonable times and places except records of a confidential nature. Confidential material shall mean job and school references.
2. Teachers shall have the right to have photocopies of any non-confidential material as defined herein on payment of the reasonable cost thereof.

3. No material of a derogatory nature shall be added to a teacher's file unless the actual copy to be filed has been signed and dated by the teacher. The signature indicates that the teacher has read the material; however, it does not imply agreement with its content. The teacher shall have the right to attach dissenting material to any item in his/her file. After eight (8) years, material of a derogatory nature shall be removed.

Another significant question that should be considered is what third party access to personnel records is allowed and what procedures govern this release of information? The right to privacy of employees must be balanced against the need of prospective employers to obtain information to evaluate applicants and businesses to have facts needed to evaluate customers in business transactions. For this reason some third party access is usually permitted. Examples of outside agencies that might have legitimate needs for access to personnel file data are other school systems, state teacher certification services, teacher retirement systems, banks and other financial institutions, and legal authorities. In instances such as those involving credit transactions, it is wise to have definite procedures whereby employees give written authorization to release certain types of information.

Dr. Robert A. Smith, an editor with Educational Service Bureau, Inc., appearing at the AASPA Annual Conference in Milwaukee in 1977, recommended that specific procedures also be established to govern the access of school board members to employee personnel files. Dr. Smith recommended that any request by a board member should be submitted in writing to the local school superintendent giving the reason the board member is making such a request and providing a copy of the request to the other board members. He further recommended that the full board should approve such a request and that the personnel files should then be reviewed in the presence of the superintendent or the full board. Files should not be copied by board members or leave the administrative office building, according to Dr. Smith. He further cautions that board members should not review personnel files prior to a due process hearing.

Summaries and Recommendations

The Privacy Protection Study Commission studied many aspects of the employment relationship in order to formulate recommendations in the light of three broad public-policy objectives: (1) to minimize intrusiveness; (2) to maximize fairness; and (3) to create a legitimate, enforceable expectation of confidentiality. In contrast to other areas, however, the Commission envisages adoption of most of its employment-related recommendations by voluntary action.

The following are excerpts from the Commission's recommendations that are relevant to school personnel records:¹

1. That an employer periodically and systematically examine its employment and personnel record-keeping practices, including a review of:
 - (a) the number and types of records it maintains on individual employees, former employees, and applicants;
 - (b) the items of information contained in each type of employment record it maintains;
 - (c) the uses made of the items of information in each type of record;
 - (d) the uses of such records within the employing organization;
 - (e) the disclosures made of such records to parties outside the employing organization; and
 - (f) the extent to which individual employees, former employees, and applicants are both aware and systematically informed of the uses and disclosures that are made of information in the records kept about them.
2. That an employer articulate, communicate, and implement fair information practices policies for employment records which should include:

- (a) limiting the collection of information on individual employees, former employees, and applicants to that which is relevant to specific decisions;
 - (b) informing employees, applicants, and former employees who maintain a continuing relationship with the employer of the uses to be made of such information;
 - (c) informing employees as to the types of records that are being maintained on them;
 - (d) adopting reasonable procedures to assure that accuracy, timeliness, and completeness of information collected, maintained, used, or disclosed about individual employees, former employees, and applicants;
 - (e) permitting individual employees, former employees, and applicants to see, copy, correct, or amend the records maintained about them;
 - (f) limiting the internal use of records maintained on individual employees, former employees, and applicants;
 - (g) limiting external disclosures of information in records kept on individual employees, former employees, and applicants, including disclosures made without the employee's authorization in response to specific enquiries or requests to verify information about him/her; and
 - (h) providing for regular review of compliance with articulated fair information practice policies.
3. That except as specifically required by federal or state statute or regulation, or by municipal ordinance or regulation, and employer should not seek or use a record of arrest pertaining to an individual applicant or employee.
4. That unless otherwise required by law, an employer should seek or use a conviction record pertaining to an individual applicant or employee only when the record is directly relevant to a specific employment decision affecting the individual.
5. That where conviction information is collected, it should be main-

tained separately from other individually identifiable employment records so that it will not be available to persons who have no need for it.

6. That no employer or consumer-reporting agency (as defined in the Fair Credit Reporting Act) acting on behalf of an employer ask, require, or otherwise induce an applicant or employee to sign any statement authorizing any individual or institution to disclose information about him or about any other individual, unless the statement is:
 - (a) in plain language;
 - (b) dated;
 - (c) specific as to the individuals and institutions he is authorizing to disclose information about him who are known at the time the authorization is signed, and general as to others whose specific identity is not known at the time the authorization is signed;
 - (d) specific as to the nature of the information he is authorizing to be disclosed;
 - (e) specific as to the individuals or institutions to whom he is authorizing information to be disclosed;
 - (f) specific as to the purpose(s) for which the information may be used by any of the parties named in (e) at the time of the disclosure; and
 - (g) specific as to its expiration date which should be for a reasonable period of time not to exceed one year.
7. That as a matter of policy an employer should
 - (a) designate clearly:
 - (i) those records about the employee, former employee, or applicant for employment (including any individual who is being considered for employment but who has not formally applied) which the employer will allow such employee, former employee, or applicant to see and copy

on request, and

- (ii) those records about an employee, former employee or applicant which the employer will not make available to the employee, former employee, or applicant.

except that an employer should not designate as an unavailable record any recorded evaluation it makes of an individual's employment performance, any medical record or insurance record it keeps about an individual, or any record about an individual that it obtains from a consumer-reporting agency (as defined by the Fair Credit Reporting Act), or otherwise obtains about an individual in the course of an investigation related to an employment decision not involving suspicion of wrongdoing;

- (b) assure that its employees are informed as to which records are included in categories (a) (i) and (ii) above; and
- (c) upon request by an individual applicant, employee, or former employee:
 - (i) inform the individual, after verifying his identity, it has any recorded information pertaining to him that is designated as records he may see and copy; and
 - (ii) permit the individual to see and copy any such record(s), either in person or by mail; or
 - (iii) apprise the individual of the nature and substance of any such record(s) by telephone; and
 - (iv) permit the individual to use one or the other of the methods of access provided in (c) (ii) and (iii), or both if he prefers,

except that the employer could refuse to permit the individual to see and copy any record it has designated as an unavailable record pursuant to (a) (ii), above.

- 8. That, except for a medical record or an insurance record, or any record designated by an employer as an unavailable record, an

employer should voluntarily permit an individual employee, former employee, or applicant to request correction or amendment of a record pertaining to him; and

- (a) within a reasonable period of time correct or amend (including supplement) any portion thereof which the individual reasonably believes is not accurate, timely, or complete; and
- (b) furnish the correction or amendment to any person or organization specifically designated by the individual who may have, within two years prior thereto, received any such information; and, automatically to any consumer-reporting agency (as defined by the Fair Credit Reporting Act) that furnished the information corrected or amended; or
- (c) inform the individual of its refusal to correct or amend the record in accordance with his request and of the reason(s) for the refusal; and
 - (i) permit an individual who disagrees with the record a concise statement setting forth the reasons for his disagreement;
 - (ii) in any subsequent disclosure outside the employing organization containing information about which the individual has filed a statement of dispute, clearly note any portion of the record which is disputed, and provide a copy of the statement along with the information being disclosed; and
 - (iii) furnish the statement to any person or organization specifically designated by the individual who may have, within two years prior thereto, received any such information; and, automatically, to any consumer-reporting agency (as defined by the Fair Credit Reporting Act) that furnished the disputed information; and
- (d) limit its reinvestigation of disputed information to those

record items in dispute.

9. That an employer assure that the personnel and payroll records it maintains are available internally only to authorized users on a need-to-know basis.
10. That an employer clearly inform all its applicants upon request, and all employees automatically, of the types of disclosures it may make of information in the records it maintains on them, including disclosures of directory information, and of its procedures for involving the individual in particular disclosures.

While the recommendations of the Privacy Protection Study Commission are extensive, and some that did not appear to be relevant for school personnel administrators are not included in this report, the overall study provides valuable information for school personnel administrators who are considering acceptable practices in maintaining personnel files.

From the review of various publications and presentations on the subject of personnel file management, six "major principles of enlightened personnel file management" have emerged.

1. Only maintain material appropriate to school personnel needs.
"If you don't need it, don't keep it."
2. Develop procedures to assure a non-secret record keeping system. Employees should have the right to examine their personnel files; An employer should have established procedures such as requiring an appointment and having a personnel officer present at all times during the review. Caution: Do not allow conditions you cannot handle be imposed by the bargaining agreement with employee groups. For example, one system's agreement specified that upon 24 hours' notice, personnel files could be reviewed. There was a strike and 1,200 employees requested to review their files the next day.
3. An employee should have the right to challenge the accuracy, relevancy, and timeliness of data.
4. Establish procedures for retrieval and transmission of records

requests only to those authorized. An employee should know who has access to the file and how it will be used.

5. Obtain release from individuals for transmission of information from the record system. Employees should be able to prevent release of information to third parties without their consent unless something is required by law such as subpoena. It would be to the school system's advantage to have release forms signed by terminating employees authorizing release of reference information.
6. Establish security procedures to prevent access to files by unauthorized personnel. A responsible person should be "custodian" of the personnel files and should prevent any misuse of them. A records center for maintenance, retention, purging, and destruction of personnel records is advisable.

Reference.

1. Personal Privacy In An Information Society, Report of the Privacy Protection Commission. 1977.

APPENDIX I

QUESTIONNAIRE

Place an X beside those items that are included in your personnel files. Indicate in the right-hand columns whether or not these items are available for review by the employee.

I. Content: Personnel Files

	Available for review by em- ployee	Not subject to review by em- ployee
_____ Evaluative data	_____	_____
_____ Copy of Certificate	_____	_____
_____ Contract	_____	_____
_____ Personal data: Insurance or annuities, tax, retirement	_____	_____
_____ Letters of reprimand	_____	_____
_____ Evaluative materials regarding promotions	_____	_____
_____ Pre-employment information	_____	_____
_____ Bad debt notices	_____	_____
_____ Garnishment notices	_____	_____
_____ General statements or letters of complaint	_____	_____
_____ General statements or letters of commendation	_____	_____
_____ Requests for transfer	_____	_____
_____ Requests for leave	_____	_____
_____ Resignation or termination data	_____	_____
_____ Test scores	_____	_____
_____ Application form	_____	_____
_____ Loyalty Oath	_____	_____
_____ Security questionnaire	_____	_____
_____ Required medical information	_____	_____
_____ College transcripts	_____	_____
_____ OTHER: _____	_____	_____
_____	_____	_____

II. Questions:

1. Does your system maintain items other than pre-employment data that are considered confidential and not subject to review by employees? Yes___ No___
2. Do you advise prospective employees that certain pre-employment reference material that will be included in their personnel files will not be available for review by the employee? Yes___ No___
3. Does your system have a procedure for verification of receipt of documents or correspondence by an employee from the system for situations in which proof of delivery of material might be significant at a later date? Yes___ No___
4. Does your system have a regulation as to the length of time that evaluative material may be maintained in a personnel file? Yes___ No___ If yes, how long? _____
5. Does your system have a regulation as to the length of time that derogatory materials may be maintained in a personnel file? Yes___ No___ If yes, how long? _____
6. Do you have a policy that permits employees to insert any item desired into their personnel file? Yes___ No___
7. Do you require a photograph for inclusion in the employee's personnel file? Yes___ No___
8. Do employees in your system have the right to review the contents of their files upon request? Yes___ No___
9. Do you have a specified procedure that must be followed in order for employees to review their personnel files? Yes___ No___
10. Are the items that are to be contained in your personnel files negotiated? Yes___ No___
11. Can employees obtain copies of materials from their personnel files? Yes___ No___
12. Do you have an established Board of Education policy that delineates the contents of your personnel files? Yes___ No___
Procedures regarding personnel files? Yes___ No___
Housing of personnel files? Yes___ No___

Name of School System _____
City _____ State _____

Number of full time employees: Professional _____
Classified _____

Appendix II

QUESTIONNAIRE

1. Do you have an established Board of Education policy that outlines provisions for maintaining confidentiality of information contained in employee files?

Yes___ No___

2. SUPERVISION OF EMPLOYEE FILES

- A. Supervision of employee files is the responsibility of a:

_____ a. professionally certificated employee.
_____ b. clerical employee.

- B. Files are stored in:

_____ a. vault at Central Office.
_____ b. open office area with much accessibility.
_____ c. office area-limited accessibility.
_____ d. office area-no accessibility.
_____ e. other_____

3. RELEASE OF INFORMATION

- A. Contents of personnel file are available to employee for examination.

_____ Yes _____ No

- B. Employee may obtain copies of material in personnel file.

_____ Yes _____ No

a. at employee's expense _____

b. at employer's expense _____

- C. Board members have access to employees' personnel files.

_____ Yes _____ No

- D. Immediate supervisor of an employee has access to that employee's file.

_____ Yes _____ No

- E. Personnel records are removed from personnel department by:

_____ a. Superintendent

_____ b. Administrators

_____ c. Other (identify) _____

_____ d. No one

F. Release of information to third party may be done upon written authorization of the employee.

_____ Yes _____ No

G. Matters that remain within the public domain, e.g., verification of employment, verification of teaching experience, application for certification or retirement, might be released without written approval of the employee.

_____ Yes _____ No

H. Do terminating employees sign a release to authorize reference information to be provided future employers?

_____ Yes _____ No

4. PERSONNEL RECORDS RETENTION AND DISPOSAL

A. The chief personnel officer at specified intervals is responsible for examining, updating, or removing outdated materials from employee's personnel file.

_____ Yes _____ No

B. As persons leave the employ of the system, their inactive personnel files remain in the personnel department.

_____ Yes _____ No

If no, the files are stored _____

C. Are inactive personnel files or components of the file ever destroyed?

_____ Yes _____ No

If yes, identify items destroyed. _____

School System

City

State